

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

TREY JONES §
TDCJ # 01758843 §
§
v. § **2:12-CV-145**
§
NUECES COUNTY, and §
NICHOLAS ORTEGA §

**STATEMENT OF INTENT REGARDING MEDIATION
BY DEFENDANT NUECES COUNTY, TEXAS**

TO THE HONORABLE NELVA GONZALES RAMOS, UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant Nueces County, Texas, makes the following *Statement of Intent Regarding Mediation*, and respectfully shows:

1. Defendant Nueces County, Texas, is of the opinion that there is no liability for Defendant, making resolution of this lawsuit by alternative dispute resolution unlikely as to this Defendant. In addition, Nueces County has not received overdue discovery responses from Plaintiff, which means that it cannot fairly and effectively evaluate Plaintiff's remaining claims.

[See D.E. 21]

2. Although the electronic docket says that this case is closed, it is the understanding of Plaintiff's counsel and undersigned counsel that Plaintiff still has a live Complaint [D.E. 1] asserting causes of action against this Defendant, and against Defendant Nicolas Ortega, Jr. Both Nueces County and Ortega have filed answers. [D.E. 23, 34] The Court has not entered a final judgment in this case.

3. Defendant Nueces County has not received the discovery responses from Plaintiff which were initially due on December 17, 2012. [Ex. A] Defendant agreed to an extension until January 14, 2013. [Ex. B] Plaintiff has not sought any further extensions, although his counsel expected to provide the responses by February 1, 2013, and undersigned counsel expressed that she would agree to another extension, if asked. [Ex. C] An inquiry of February 19, 2013, concerning the status of the discovery responses remains unanswered. [Ex. C]

4. Discovery ends on March 15, 2013, and dispositive motions are due April 1, 2013. [Scheduling Order, D.E. 31] Defendant Nueces County will ask the Court to compel Plaintiff's discovery responses in sufficient time for Defendant to file a dispositive motion by the deadline. In the alternative, Defendant will ask the Court to dismiss the remaining claims against it because Plaintiff has not responded to the discovery requests.

5. The remaining claim against this Defendant concerns Plaintiff's medical care and treatment while he was incarcerated in the Nueces County jail. [D.E. 1] Defendant has asked Plaintiff to produce copies of his relevant medical records, or to provide an authorization for release of those records, but Plaintiff has done neither. [Ex. A]

6. Defendant Nueces County is of the opinion that it should not be ordered to mediation because it has not received any responses to the discovery served on Plaintiff on November 14, 2012. Defendant is entitled to the information sought, and all objections have been waived by lack of a timely response or agreement extending the response deadline. Defendant cannot make informed decisions at mediation if it does not have the information to which it is entitled, and which is necessary to fairly and accurately evaluate Plaintiff's remaining cause of action.

7. Defendant is of the opinion that it should not be ordered to mediation without the opportunity to present a dispositive motion to the Court on the remaining claim against it—and that it should have the benefit of discovery responses before filing such motion.

Respectfully submitted,

LAURA GARZA JIMENEZ,
NUECES COUNTY ATTORNEY

/s/ Alissa Anne Adkins
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NOTICE OF ELECTRONIC FILING

Undersigned counsel hereby certifies that she has submitted electronically for filing a true and correct copy of this document in accordance with the Electronic Case File System of the Southern District of Texas on this the 12th day of March, 2013.

/s/ Alissa Anne Adkins
Alissa Anne Adkins

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this document was served on:

Mr. William H. Berry, Jr.
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(electronically via CM/ECF)

Mr. Richard W. "Rick" Rogers, III
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710 Buffalo St., Ste. 202
Corpus Christi, TX 78401
(electronically via CM/ECF)

on this the 12th day of March, 2013.

/s/ Alissa Anne Adkins
Alissa Anne Adkins